

Alexandria Division

STATEMENT OF FACTS

Unless otherwise indicated, at all times relevant to the charge in the information:

1. The defendant, a certified public accountant, was employed at PurchasePro.com (“Purchasepro”) from October 1998 until August 2001. Miller held the position of controller and Senior Vice President-Finance of the company during this time period. PurchasePro was a company engaged in the sale of sourcing software, materials management and procurement software and services. The company’s common stock traded on the Nasdaq National Market under the symbol “PPRO.”
1. In his capacity as controller and Senior Vice President-Finance for PurchasePro, Miller was in charge of the company’s accounting department and played a significant role in the preparation of the company’s financial statements.
2. On or about October 25, 2001, in connection with a non-public investigation relating to Purchasepro, the United States Securities and Exchange Commission

(SEC) issued a subpoena to Miller which required him to produce documents to the SEC and provide sworn testimony before the SEC.

3. On February 28, 2002, Miller testified under oath before the SEC in Washington, D.C. During his testimony, the SEC asked Miller if he had produced to the agency all of the documents called for by the October 25, 2001 subpoena. Miller responded that he had. In addition, Miller testified that he had searched his electronic files for responsive documents and had not withheld any non-privileged documents from his production to the SEC.
4. After his February 28, 2002 testimony before the SEC, Miller returned home and realized that he had retained in electronic form certain documents on his laptop computer that were in fact responsive to the SEC's October 25, 2001 document subpoena but had not been produced to the SEC.
5. Miller's testimony before the SEC continued on March 12, 2002, in Washington, DC. During his testimony the SEC asked Miller, who again was under oath, if he had any additional documents that were responsive to the SEC's October 25, 2001 subpoena. Miller replied "no," despite the fact that he had located additional documents responsive to the subpoena after the first day of his testimony before the SEC.
6. On February 5, 2003, representatives of United States Attorney's Office for the Eastern District of Virginia, the Department of Justice, Criminal Division, the Federal Bureau of Investigation and the SEC interviewed Miller in Washington, D.C., in connection with a criminal investigation being conducted in the Eastern

District of Virginia relating to Purchasepro. The questioning during Miller's interview pertained to, among other things, Purchasepro's financial statements for 2000 and 2001.

7. During the February 5, 2003 interview, Miller identified a chronology that he had prepared in April 2001 and which related to transactions that Purchasepro had booked as revenue for the first quarter of 2001. Miller offered to voluntarily produce the chronology to the government. In addition, the government asked Miller: (a) whether he had in his possession any other documents and materials related to Purchasepro, (b) to preserve any such documents and materials, and (c) to provide any such documents and materials to his attorneys for production to the government.
8. Soon after his February 2003 interview with the government, Miller accessed the laptop computer at his residence that contained documents responsive to the SEC's October 25, 2001 subpoena and which related to Purchasepro. Miller then attempted to permanently delete the Purchasepro-related documents from his laptop knowing that he had not turned the documents over to the SEC and that the government had requested during the February 2003 interview that such documents be preserved and turned over to his attorneys for production to the government. Miller also attempted to physically damage the laptop.
9. Also soon after his February 2003 interview with the government, Miller located in his garage a box of documents relating to Purchasepro. Miller removed a pile of documents and, over a span of a couple of hours, in no particular order,

proceeded to shred the first several of those documents with a commercial shredder before stopping on his own. When he destroyed these documents, Miller knew that he had not turned the documents over to the SEC and that the government had requested, in February 2003, that such documents be preserved and turned over to his attorneys for production to the government. Among the documents which Miller shredded were the only handwritten version of the chronology referenced in paragraph 8 above as well as other documents pertaining to Purchasepro's financial statements for 2000 and 2001.

Summary

Miller failed to turn over Purchasepro-related documents responsive to an SEC subpoena, lied to the SEC under oath about his production of such documents and then, after being asked by the government in February 2003 to preserve any Purchasepro-related documents, attempted to permanently delete such documents from his laptop and shredded paper copies of other Purchasepro-related documents. Miller deleted and shredded the Purchasepro-related documents with the intent to impede, obstruct and influence both a criminal investigation relating to Purchasepro in the Eastern District of Virginia and a formal investigation relating to Purchasepro by the United States Securities and Exchange Commission.

Respectfully submitted,

PAUL J. MCNULTY
UNITED STATES ATTORNEY

By: _____

Claudius B. Modesti
Assistant United States Attorney

By: _____
Adam A. Reeves
Trial Attorney, Criminal Division
United States Department of Justice

Defendant's Stipulation and Signature

After consulting with my attorney and pursuant to the plea agreement I entered into this day with the United States, I hereby stipulate that the above statement of facts is true and accurate. I further stipulate that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

Date: _____

Scott H. Miller
Defendant

Defense Counsel's Signature

I am Scott H. Miller's attorney. I have carefully reviewed the above statement of facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

Date: _____

Robert Luskin, Esq.
Counsel to the Defendant